

**Introduced by Senator Hancock**  
**(Coauthors: Senators Wieckowski and Wolk)**  
(Coauthor: Assembly Member Bonilla)

February 9, 2015

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An act to amend and repeal Section 12811.1 of the Public Utilities Code, relating to utility charges.

LEGISLATIVE COUNSEL'S DIGEST

SB 188, as introduced, Hancock. Municipal utility district: utility charges: delinquencies.

(1) The existing Municipal Utility District Act authorizes the formation of a municipal utility district. The act authorizes a district to acquire, construct, own, operate, control, or use works for supplying the inhabitants of the district and public agencies with light, water, power, heat, transportation, telephone service, or other means of communication, or means for the collection, treatment, or disposition of garbage, sewage, or refuse matter. The act authorizes a municipal utility district, by resolution or ordinance, to require the owner of record of privately owned real property within the district to pay the fees, tolls, rates, rentals, or other charges for certain utility services rendered to a lessee, tenant, or subtenant, and provides that those charges that have become delinquent, together with interest and penalties, are a lien on the property when a certificate is filed by the district in the office of the county recorder and that the lien has the force, effect, and priority of a judgment lien.

The act, in addition to the above-described methods, establishes procedures, until January 1, 2016, for a municipal utility district to collect delinquent fees, tolls, rates, rentals, or other charges, together with interest and penalties thereon, for services rendered to a lessee,

tenant, or subtenant, through the tax roll, in the same manner as property taxes. The act, until January 1, 2016, authorizes a municipal utility district to collect delinquent fees, tolls, rates, rentals, or other charges, together with interest and penalties thereon, for services rendered to a lessee, tenant, or subtenant, by recording in the office of the county recorder of the county in which the affected parcel is located, a certificate declaring the amount of the delinquent charges, together with interest and penalties thereon, which would then constitute a lien against the affected real property of the delinquent property owner in that county and have the force, effect, and priority of a judgment lien. The act, until January 1, 2016, requires a municipal utility district that exercises these collection measures to reimburse the county for the reasonable expenses incurred by the county.

This bill would extend the operation of these provisions indefinitely. By requiring county auditors and recorders to undertake certain actions in response to the exercise of collection measures by a municipal utility district, the bill would impose a state-mandated local program.

(2) The act prohibits a municipal utility district from collecting delinquent fees or charges using the above-described collection measures for the furnishing of electrical services and, beginning January 1, 2016, for the furnishing of water or sewer service to residential property.

This bill would permanently authorize a municipal utility district to collect delinquent fees or charges using the above-described collection measures for the furnishing of water or sewer service to residential property.

(3) The act requires any district that places a lien on a property for water or sewer service on or before December 31, 2014, pursuant to the above-described collection measures, to submit a report containing certain information to the Assembly and Senate Committees on Judiciary and to the Assembly and Senate Committees on Local Government on or before January 1, 2015.

This bill would delete this provision.

(4) The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that no reimbursement is required by this act for a specified reason.

Vote: majority. Appropriation: no. Fiscal committee: yes.

State-mandated local program: yes.

*The people of the State of California do enact as follows:*

1     SECTION 1. Section 12811.1 of the Public Utilities Code, as  
2 amended by Section 1 of Chapter 485 of the Statutes of 2010, is  
3 amended to read:

4     12811.1. (a) Except when prohibited by Section 12822.6, a  
5 district may, by resolution or ordinance, require the owner of record  
6 of real property within the district to pay the fees, tolls, rates,  
7 rentals, or other charges for services rendered to a lessee, tenant,  
8 or subtenant, and those fees, tolls, rates, rentals, and other charges  
9 that have become delinquent, together with interest and penalties  
10 thereon, are a lien on the property when a certificate is filed in the  
11 office of the county recorder pursuant to subdivision (b) and the  
12 lien has the force, effect, and priority of a judgment lien. No lien  
13 may be created under this section on any publicly owned property.

14     (b) A lien under this section attaches when the district files for  
15 recordation in the office of the county recorder a certificate  
16 specifying the amount of the delinquent fees, tolls, rates, rentals,  
17 or other charges together with interest and penalties thereon; the  
18 name of the owner of record of the property to which services were  
19 rendered by the district; and the legal description of the property.  
20 Within 30 days of receipt of payment of all amounts due, including  
21 recordation fees paid by the district, the district shall file for  
22 recordation a release of the lien.

23     (c) A district may, by resolution or ordinance, provide that any  
24 delinquent fees, tolls, rates, rentals, or other charges, together with  
25 interest and penalties thereon, including any delinquent fees, tolls,  
26 rates, rentals, or other charges for services rendered to a lessee,  
27 tenant, or subtenant, may be collected on the tax roll in the same  
28 manner as property taxes. Before any entity may collect any  
29 delinquent fees, tolls, rates, rentals, or other charges, together with  
30 interest and penalties thereon, including any delinquent fees, tolls,  
31 rates, rentals, or other charges for services rendered to a lessee,  
32 tenant, or subtenant on the tax roll, the district shall prepare a  
33 report, provide notice, conduct a public hearing, and file a  
34 certificate in the office of the county recorder, as follows:

35     (1) The general manager shall prepare and file with the district  
36 board of directors a report that describes each affected parcel of  
37 real property and the amount of the delinquent fees, tolls, rates,  
38 rentals, or other charges, together with interest and penalties

1 thereon, including any delinquent fees, tolls, rates, rentals, or other  
2 charges for services rendered to a lessee, tenant, or subtenant for  
3 each affected parcel for the year. The general manager shall give  
4 notice of the filing of the report and of the time, date, and place  
5 for a public hearing by publishing the notice pursuant to Section  
6 6066 of the Government Code in a newspaper of general  
7 circulation, and by mailing the notice to the owner of each affected  
8 parcel at least 14 days prior to the date of the hearing.

9 (2) At the public hearing, the board of directors shall hear and  
10 consider any objections or protests to the report. At the conclusion  
11 of the public hearing, the board of directors may adopt or revise  
12 the delinquent fees, tolls, rates, rentals, or other charges, together  
13 with interest and penalties thereon, including any delinquent fees,  
14 tolls, rates, rentals, or other charges for services rendered to a  
15 lessee, tenant, or subtenant. The board of directors shall make its  
16 determination on each affected parcel and its determinations shall  
17 be final.

18 (3) On or before August 10 of each year following these  
19 determinations, the general manager shall file with the county  
20 auditor a copy of the final report adopted by the board of directors.  
21 The county auditor shall enter the amount of the delinquent fees,  
22 tolls, rates, rentals, or other charges, together with interest and  
23 penalties thereon, including any delinquent fees, tolls, rates, rentals,  
24 or other charges for services rendered to a lessee, tenant, or  
25 subtenant, against each of the affected parcels of real property as  
26 they appear on the current assessment roll. The county tax collector  
27 shall include the amount of the delinquent fees, tolls, rates, rentals,  
28 or charges, together with interest and penalties thereon, including  
29 any delinquent fees, tolls, rates, rentals, or other charges for  
30 services rendered to a lessee, tenant, or subtenant, on the tax bills  
31 for each affected parcel of real property and collect the delinquent  
32 fees, tolls, rates, rentals, or charges, together with interest and  
33 penalties thereon, including any delinquent fees, tolls, rates, rentals,  
34 or other charges for services rendered to a lessee, tenant, or  
35 subtenant, in the same manner as property taxes.

36 (4) The district may recover any delinquent fees, tolls, rates,  
37 rentals, or other charges, together with interest and penalties  
38 thereon, including any delinquent fees, tolls, rates, rentals, or other  
39 charges for services rendered to a lessee, tenant, or subtenant, by  
40 recording in the office of the county recorder of the county in

1 which the affected parcel is located, a certificate declaring the  
2 amount of the delinquent fees, tolls, rates, rentals, or charges,  
3 together with interest and penalties thereon, including any  
4 delinquent fees, tolls, rates, rentals, or other charges for services  
5 rendered to a lessee, tenant, or subtenant, due, and the name and  
6 last known address of the person liable therefore. From the time  
7 of recordation of the certificate, the amount of the delinquent fees,  
8 tolls, rates, rentals, or charges, together with interest and penalties  
9 thereon, including any delinquent fees, tolls, rates, rentals, or other  
10 charges for services rendered to a lessee, tenant, or subtenant,  
11 constitutes a lien against the affected real property of the delinquent  
12 property owner in that county. This lien shall have the force, effect,  
13 and priority of a judgment lien. Within 30 days of receipt of  
14 payment of all amounts due, including recordation fees paid by  
15 the district, the district shall file for recordation a release of the  
16 lien.

17 (5) The district shall not recover on the tax roll any delinquent  
18 fees, tolls, rates, rentals, or other charges for services for  
19 commercial use to a commercial tenant under an account  
20 established by the commercial tenant, from any subsequent tenant  
21 or the property owner, due to nonpayment of charges by a previous  
22 commercial tenant. For this purpose, the term “subsequent  
23 commercial tenant” shall not include an entity or adult person that  
24 was located at the same address during the period the charges or  
25 penalties accrued. This paragraph does not apply to master-metered  
26 accounts.

27 (d) Notwithstanding Sections 6103 and 27383 of the  
28 Government Code, in filing any instrument, paper, or notice  
29 pursuant to this section, the district shall pay all applicable  
30 recording fees prescribed by law.

31 (e) A district shall reimburse the county for the reasonable  
32 expenses incurred by the county pursuant to this section.

33 ~~(f) Any district that places a lien on a property for water or sewer~~  
34 ~~service pursuant to this section on or before December 31, 2014,~~  
35 ~~shall submit to the Assembly and Senate Committees on Judiciary~~  
36 ~~and to the Assembly and Senate Committees on Local Government,~~  
37 ~~on or before January 1, 2015, a report containing the following~~  
38 ~~information:~~

39 ~~(1) The total number of liens created under this section for water~~  
40 ~~or sewer service and the total dollar amount of those liens.~~

~~(2) The overall effectiveness of the liens and any problems associated with the use of those liens.~~

~~(g)~~

~~(f) The remedies in this section are cumulative and in addition to any other remedy provided by law. The district may pursue remedies alternatively or consecutively.~~

~~(h)~~

~~(g) This section does not apply to delinquent fees or charges for the furnishing of electrical service.~~

~~(i) This section shall remain in effect only until January 1, 2016, and as of that date is repealed, unless a later enacted statute, that is enacted before January 1, 2016, deletes or extends that date.~~

SEC. 2. Section 12811.1 of the Public Utilities Code, as added by Section 2 of Chapter 485 of the Statutes of 2010, is repealed.

~~12811.1. (a) A district, by resolution or ordinance, may require the owner of record of real property within the district to pay the fees, tolls, rates, rentals, or other charges for services rendered to a lessee, tenant, or subtenant, and those fees, tolls, rates, rentals, and other charges that have become delinquent, together with interest and penalties thereon, are a lien on the property when a certificate is filed in the office of the county recorder pursuant to subdivision (b) and the lien has the force, effect, and priority of a judgment lien. A lien shall not be created under this section on any publicly owned property.~~

~~(b) A lien under this section attaches when the district files for recordation in the office of the county recorder a certificate specifying the amount of the delinquent fees, tolls, rates, rentals, or other charges together with interest and penalties thereon; the name of the owner of record of the property to which services were rendered by the district; and the legal description of the property. Within 30 days of receipt of payment of all amounts due, including recordation fees paid by the district, the district shall file for recordation a release of the lien.~~

~~(c) Notwithstanding Sections 6103 and 27383 of the Government Code, in filing any instrument, paper, or notice pursuant to this section, the district shall pay all applicable recording fees prescribed by law.~~

~~(d) The remedies in this section are in addition to any other remedy provided by law.~~

1     ~~(e) This section does not apply to delinquent fees or charges for~~  
2     ~~the furnishing of water or sewer service to residential property or~~  
3     ~~electrical service.~~

4     ~~(f) This section shall become operative on January 1, 2016.~~

5     SEC. 3. No reimbursement is required by this act pursuant to  
6     Section 6 of Article XIII B of the California Constitution because  
7     a local agency or school district has the authority to levy service  
8     charges, fees, or assessments sufficient to pay for the program or  
9     level of service mandated by this act, within the meaning of Section  
10    17556 of the Government Code.